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January 8, 2017

VIA ECF SUBMISSION TO THE COURT AND ALL PARTIES

The Honorable Elizabeth A. Wolford
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

Re: *Joseph Barone v. Bausch & Lomb Inc. et al.*
Case No. 6:17-cv-06877-EAW

Dear Judge Wolford:

We are counsel to defendant Bausch & Lomb, Inc. (“B&L”) in this action and we write to request an enlargement of time for B&L to respond to two cross-claims asserted against B&L by co-defendant FCI Ophthalmics, Inc. in its Answer. The date by which a responsive pleading is due is today, January 8, 2018. We respectfully request an enlargement of time until fourteen days after the Court’s determination of B&L’s pending motion to dismiss the complaint, now before the Court. Co-defendant FCI has consented to B&L’s request for this enlargement.

Prior to removal of this action, co-defendant FCI served its Answer, which included two brief “affirmative defense” and “cross-claims” against B&L and additional co-defendant Morcher GmbH. B&L believes, while preserving its rights to argue that the cross-claims themselves are legally insufficient, that in the event its motion to dismiss is granted in full or in part, FCI’s cross-claims also would be subject to dismissal. Accordingly, in an effort to conserve judicial resources and the resources of the parties, B&L requests an enlargement of time to answer or move concerning those two cross-claims until fourteen days after the Court’s determination of B&L’s pending motion to dismiss.

No prior request for an extension of time on this issue has previously been made to this or any other Court.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Daniel I.A. Smulian".

Daniel I. A. Smulian

Hon. Elizabeth A. Wolford

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cc: Joe Lipari, Esq. (*via UPS Overnight Delivery and email*)
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